

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 20-cr-20-jdp

DANIEL PEGGS,

Defendant.

FOURTH PRETRIAL MOTION: MOTION TO DISMISS COUNT 1

Daniel Peggs, by counsel, moves to dismiss count 1 of the superseding indictment as an as-applied challenge under the Tenth Amendment. This motion is made under the authority in *Bond v. United States*, 564 U.S. 211, 226 (2011) (*Bond I*) and *Bond v. United States*, 572 U.S. 844, 848 (2014) (*Bond II*), that using § 1591 to criminalize Peggs's purely local conduct—having group-sex encounter with a minor, where someone helped chip in for a hotel room—interferes with the State's traditional police power and violates the Tenth Amendment. This is not a case where there is a closed (or agreed upon) universe of facts that would support a Tenth Amendment motion. Thus, this motion is meant to simply preserve the argument and depending on the facts alleged (if the Bill of Particulars is granted) or produced at trial, the defense will re-raise the argument with a proper factual background.¹ Thus, this motion is simply meant to preserve the argument and should be denied without prejudice.

¹ The defense believes that proceeding in this manner accords with how the Court's analysis of *Bond* in *United States v. Ryan*, 18CR152, R.165:13–25, where the Court noted the need to find or decide how the facts

Dated at Madison, Wisconsin this 25th day of June, 2021.

Respectfully submitted,

Daniel Peggs, Defendant

/s/Joseph A. Bugni
Joseph A. Bugni

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of the case worked with the statute's reach. Thus, this argument will be re-raised once those facts are established, potentially *after* trial.